

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES DAVID GRIEPSMA,

Plaintiff,

v.

CHRISTIAN J ANDERSEN, et al.,

Defendants.

Case No. C21-302 LK-TLF

ORDER

This matter comes before the Court on the following motions submitted by plaintiff :

- (1) Motion to Strike Skagit Defendants Raised Defense of Qualified Immunity and Objections to Defendants' Motion for Summary Judgment Reply (Dkt. 136);
- (2) Second Motion to Strike Skagit Defendants Raised Defense of Qualified Immunity and Objections to Defendants' Motion for Summary Judgment Reply (Dkt. 145);
- (3) Third Motion to Strike Skagit Defendants Raised Defense of Qualified Immunity and Objections to Defendants' Motion for Summary Judgment Reply (Dkt. 154);
- (4) Motion to Strike and Objections to DOC Defendants' Motion for Summary Judgment Reply (Dkt. 139);
- (5) Motion to Renew Response to Motion for Summary Judgment (Dkt. 163);

1 (6) Motion to Renew Strike (Dkt. 165);

2 (7) Motion to Strike (Dkt. 171);

3 (8) Motion to Exclude Evidence Regarding Disciplinary History (Dkt. 179); and

4 (9) Motion to Bar Evidence of Plaintiff's Unrelated Litigation (Dkt. 171).

5 For the reasons discussed below, plaintiff's motions to strike (Dkts. 136, 139,
6 145, 154, 165, 171, 179) and motion to renew his response (Dkt. 163) are DENIED. And
7 plaintiff's motion to bar evidence of his unrelated litigation is STRICKEN as premature.
8 Dkt. 182.

9 DISCUSSION

10 Plaintiff initiated this action on March 5, 2021. Dkt. 1-1; Dkt. 5. He alleges a
11 number of claims, beginning with allegations that on April 3, 2019, DOC and Skagit
12 Defendants subjected him to cruel and unusual punishment and violated his due
13 process rights from use of force during and after his sentencing hearing, and conditions-
14 of-confinement allegations for failure to provide constitutionally adequate medical care.
15 *Id.* Plaintiff moved to leave to amend his complaint, which was granted by the Court.
16 Dkt. 43. The Skagit County defendants, and in a separate motion, the DOC defendants,
17 have moved for summary judgment (Dkts. 104, 115). Both motions are pending before
18 the Court. In reviewing plaintiff's aforementioned motions, it appears that all of his
19 motions are either untimely or premature.

20 Plaintiff's motions to strike (Dkts. 136, 145, 154, 171) relate to the Skagit County
21 defendants' motion for summary judgment. Dkt. 104. Plaintiff seeks to strike the Skagit
22 County defendants' reliance on qualified immunity. However, pursuant to Local Civil
23 Rule 7(g), requests to strike materials contained in or attached to submissions of
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1 opposing parties shall *not* be presented in a separate motion to strike, but shall instead
2 be included in the responsive brief, and will be considered with the underlying motion. If
3 plaintiff sought to strike and oppose the Skagit County defendants' reliance on the
4 qualified immunity defense, then his opportunity to do so would have been in his
5 response to the motion for summary judgment.

6 Plaintiff filed a response to Skagit County defendants' motion for summary
7 judgment (Dkt. 123). The Court will only consider plaintiff's arguments and opposition to
8 Skagit County defendants' motion for summary judgment that are in his properly filed
9 response. Accordingly, the Court DENIES plaintiff's motions at Dockets 136, 145, 154
10 and 171 as untimely.

11 Plaintiff also seeks to exclude evidence regarding his disciplinary history
12 specifically referred to in Skagit County defendants' motion for summary judgment (Dkt.
13 179). He argues that such evidence is inadmissible pursuant to Federal Rule of
14 Evidence 404. Dkt. 179 at 2. However, this motion is also untimely because plaintiff
15 already filed a response to Skagit County defendants' motion for summary judgment.
16 Plaintiff is permitted to question the admissibility of the evidence relied on by defendants
17 in their motion; however, his objection should have been presented in his response
18 (Dkt. 123). Any other subsequently filed response is untimely. Thus, plaintiff's motion to
19 exclude evidence regarding his disciplinary history (Dkt. 179) is DENIED without
20 prejudice. If appropriate, plaintiff may at a later time raise objections to admissibility of
21 evidence in a motion in limine, or during trial, if the case proceeds to that phase of
22 litigation.

1 For similar reasons, the Court also DENIES plaintiff's motion to strike and
2 objections to DOC defendants' motion for summary judgment (Dkt. 139). Plaintiff filed
3 his response to DOC defendants' motion for summary judgment at (Dkt 128), and he did
4 not file a notice of intent to file a surreply. LCR 7(g). Thus, any other response from
5 plaintiff relating DOC's motion for summary judgment is untimely and will not be
6 considered by the Court.

7 It is unclear to the Court which "motion to strike" plaintiff is attempting to renew in
8 his motion filed at Docket Entry 165. As discussed above, however, whether plaintiff is
9 seeking to renew his motions to strike the Skagit County's motion for summary
10 judgment or DOC's motion for summary judgment, or both, is immaterial since his
11 motion is untimely. Accordingly, plaintiff's motion to renew his motion to strike is
12 DENIED.

13 Plaintiff also filed a motion to renew his response to defendants' motion for
14 summary judgment. Dkt. 163. He does not specify which of his responses (Dkts. 123,
15 128) he is seeking to renew. The Court presumes that he is referring to both responses.
16 The Court is aware of plaintiff's responses to the defendants' motions for summary
17 judgment. This motion to renew is duplicative of previously filed motions, and is
18 DENIED.

19 Finally, plaintiff filed a motion to bar evidence of plaintiff's unrelated litigation. Dkt.
20 182. Because plaintiff does not specifically refer back to evidence relied on in another
21 pending motion, the Court interprets this motion as a motion in limine.

22 A party may bring a motion in limine to obtain a ruling on the admissibility of
23 specific evidence to be introduced at trial. The Court generally defers ruling on a motion
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1 in limine until shortly before, or at the beginning of, trial to ensure that issues
2 surrounding the disputed evidence and context for its admissibility are sufficiently
3 established. In this case, dates for pretrial motions and a trial have not been set and
4 will not be set until the pending dispositive motions have been ruled on. Thus,
5 plaintiff's motion is denied without prejudice as premature.

6 CONCLUSION

7 For the foregoing reasons, plaintiff's motions to strike arguments presented in
8 defendants' motions for summary judgment (Dkts. 136, 139, 145, 154, 165, 171) and
9 motion to renew his responses to defendants' motions for summary judgment (Dkt. 163)
10 are DENIED. Further, plaintiff's motions to bar evidence of his disciplinary record, and
11 unrelated litigation, are DENIED without prejudice. Dkts. 179, 182.

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13 Dated this 7th day of October, 2022.

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17 Theresa L. Fricke
18 United States Magistrate Judge
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